

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

BRANDON CANTRELL,

Petitioner,

v.

CIVIL ACTION NO. 2:07-00508

JOHN MCKAY, Administrator,
South Central Regional Jail,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus. (Doc. No. 2.) By Standing Order entered August 1, 2006, and filed in this case on August 16, 2007, this matter was referred to United States Magistrate Judge Mary E. Stanley. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation ("PF & R") on October 10, 2007, recommending that this court dismiss the petition, without prejudice, pending the exhaustion of state court remedies. (Doc. No. 7 at 5.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's PF & R.

Neither party filed objections to the magistrate judge's proposed findings, and the failure to file objections within the appropriate time frame constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge Stanley, the court (1) **CONFIRMS AND ACCEPTS** the magistrate judge's findings (Doc. No. 7); (2) **FINDS** that petitioner has not exhausted his state court remedies; and (3) **DISMISSES** his petition without prejudice (Doc. No. 2).

The Clerk is directed to remove this action from the active docket of this court. The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to petitioner and to all counsel of record.

It is **SO ORDERED** this 30th day of November, 2007.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge